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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,099	02/26/2004	Bodo Tonnigs	2491-30-1	2497
22852	7590	07/19/2004	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005			TAWFIK, SAMEH	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/786,099

Applicant(s)

BODO TONNIGS

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10/263,562.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/263,562, filed on 10/04/2002.

### ***Specification***

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter. For example (page 1, line 21) "... (on the fly), ..." is not clear what does it mean; etc.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. For example (Apparatus for folding cardboard articles).

The abstract of the disclosure is objected to because (abstract, last line) "Fig. 1b" needs to be deleted. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Regarding claim 5, line 1 "like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

(claim 1, lines 1 and 2) "...plate-like elements along a fold line..." is vague, indefinite, and/or confusingly worded because it is not clear what which plate like elements applicants are referring to nor it is clear to what is that along a fold line; etc.

(claim 8, lines 3 and 4) "...assumes a stationary position..." it is not clear as to the exact what is it being assumed nor positively sited.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Wingerter (5,393,291).

Wingerter discloses a device for folding "plate-like elements along a fold line" (Figs. 6-9; via 30, 32, 34, and 36) located between a first section (via case 20) and a second section (via any of 30, 32, 34, and 36) of the flat element (via the case and flaps are flat elements), the device comprising a first impression device (Fig. 9; via guide rail 120; column 6, lines 58-60) and a second impression device (Figs. 6-9; via 84, 168, and 178) contacting diverse sides of the fold line during folding of the flat element (Fig. 9), wherein the second impression device is configured such that the contact force between the second impression device and second section of the flat element comprises a first

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force component standing perpendicular to the plane of the second section, and comprises a second force component extending in the plane of the second section and acting in the direction towards the fold line, see for example (Figs. 7-9).

Regarding claim 6: wherein the fold line of the flat element is produced to facilitate folding in the form of a cross-sectional taper and/or perforation, see for example (Fig. 9).

Regarding claim 7: wherein the second force component standing in the plane of the second section and acting in the direction towards the fold line is a frictional force between the second impression device and the second section (Fig. 6; via force acted by element 84).

Regarding claim 8: wherein during folding of the flat element the second impression device assumes a stationary position along which the second section is guided (Fig. 6; via while folding flaps 30 and 32).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wingerter (5,393,291) in view of Flynn (3,977,306).

Wingerter does not disclose that the second impression device comprises at least one roller which contacts the second section during folding. However, Flynn discloses a similar folding and sealing apparatus comprising set of rollers 33 to finish the fold and

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press on the flaps to finish the fold and seals, the axes of the rollers 33 run substantially parallel to the second section (via the flaps 14), see for example (Figs. 5, 6, and 4); the rollers 33 rotate about an axis perpendicular to the second section (Fig. 4; via rollers 33 perpendicular to flap 14 before the flap being golded), note that while comprising the flap via rollers 33, it is inherent that final stage of the fold will take place.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Wingerter's folding elements 84 by having folding rollers, as taught by Flynn, in order to cover more area of the flaps while folding the flaps, therefore get better fold and compression and make it easier conveying the case along the line.

Regarding claim 13: Wingerter as modified by Flynn do not disclose that the roller has a contact surface having a high friction coefficient. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Wingerter in view of Flynn by having the roller with a contact surface having a high friction coefficient, as a matter of engineering design choice, in order to press hard and firm on the surface of the flaps and get more accurate folds, and the examiner takes an official notice that the mentioned roller with high friction coefficient surface is old, well known, and available in the art.

Regarding claim 14: Wingerter does not disclose that the first impression device comprises at least one roller. However, Flynn discloses that the firms impression device comprises rollers (32), see for example (Figs. 4 and 7).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Wingerter's first impression device 120

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by having impression rollers 32, as taught by Flynn, in order to make it easier conveying the case along the line.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gambetti 6622461, Bridges 6569073, Lam 6226965, Jeffrey 5853360, Walsh 5531852, Lott 5106359, Langen 3716962, and Caron 3695151 disclose different folding devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik  
Patent Examiner  
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A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line that curves upwards at the end.

ST.